**NONDISCLOSURE / NONCOMPETE AGREEMENT**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Employee) and/or affiliates and, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Company) agree as follows:

1. Background and Purpose. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Employee), the receiving party (“Receiving Party”) is receiving, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Company), collectively, the disclosing party (“Disclosing Party”), are providing certain proprietary information owned or controlled by, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Company), which information is provided solely on the condition that the Receiving Party and such party’s personnel to whom such party provides access to the information, retain the confidentiality of such information and not (i) use the information for any commercial purposes except as in accordance with a corporate agreement signed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Company) or (ii) disclose the information to any third party, without the prior written consent of the other. The Disclosing Party and Receiving Party agree to the terms and conditions of disclosure as provided in this Agreement.

2. Confidential Information. The term "Confidential Information" as used in this Agreement shall mean all confidential information concerning Disclosing Party or provided by Disclosing Party including, without limitation, information related to any Consulting or site evaluation Engagements/Business contacts and initiatives/technology development/marketing initiatives and plans/Real Estate Property Development engagements, written or oral information, illustrations, prototypes, models, whether patentable or unpatentable, trade secrets, know-how, concepts and other data, trademarks, copyrights, design features or configurations of any kind, procedures, demonstrations, methods, processes, uses, business and financial information, business and financial methods, manufacturing information, techniques, formulas, improvements, business or investment opportunities, research and development data, pamphlets, books, reports or other documents, inspection procedures, apparatuses, compounds, compositions, combinations, programs, software and works of authorship, whether discovered, conceived, developed, made or produced, and whether obtained by the Receiving Party directly or through inspection of any sample. Disclosing Party’s Confidential Information is regarded by that party as highly valuable, has been obtained by the investment of substantial time, effort and expense, and is not known publicly. Its continued value depends, in part, on retaining its confidential nature.

3. Use and Non-Disclosure of the Confidential Information. Receiving Party shall hold the Confidential Information in confidence, shall not disclose or reveal such Confidential Information to any person or entity without Disclosing Party’s express written consent, and shall use the Confidential Information only in accordance with the provisions of this Section 3.

3.1. Permitted Use. Receiving Party agrees that the disclosure of Disclosing Party’s Confidential Information to the Receiving Party is solely for the purpose of the Receiving Party’s limited evaluation of the Confidential Information with regard to negotiating or establishing a business relationship between the Disclosing and Receiving parties (“Permitted Use”). .

3.2. Limitation of Access. Receiving Party shall limit dissemination of and access to Disclosing Party’s Confidential Information and agrees that no disclosure will be made to any of Receiving Party’s non-employee contractors, vendors, customers, agents or associates without first obtaining Disclosing Party’s written agreement and such person's written consent to the terms of this Agreement by execution of a copy of this Agreement.

3.3. Limitation of Use. Receiving Party shall not directly or indirectly disclose or use, or permit the disclosure or use of, the Disclosing Party’s Confidential Information for any purpose other than the Permitted Use without the prior written consent of Disclosing Party. Receiving Party shall retain the Confidential Information in confidence.

3.4. Confidential Materials. Disclosing Party may furnish to Receiving Party certain materials, either in writing or otherwise fixed in tangible form, in connection with the Confidential Information (“Confidential Materials”). Any Confidential Materials shall be furnished in confidence, and the Receiving Party agrees that provisions of this Agreement applicable to the Confidential Information shall equally apply to the Confidential Materials.

3.5. No Modifications, Alterations or Copies. Receiving Party shall not in any way change, augment, modify, alter, including without limitation deconstruction or “reverse engineering,” copy or reproduce any portion of Disclosing Party’s Confidential Information or Confidential Materials.

3.6. Rights to Improvements. If Receiving Party conceives of any invention or improvement as a result of the use of Disclosing Party’s Confidential Information, Receiving Party shall assign all rights, title and interest in that invention to Disclosing Party. An invention includes without limitation any programs, software, manufactures, methods, processes, uses, apparatuses, designs, configurations of any kind, works of authorship, or intellectual property, whether patentable or not.

 4. Ownership of Confidential Information. The Confidential Information and all Confidential Materials provided shall be and remain the exclusive property of Disclosing Party. No documents or other data relating to the Confidential Information or Confidential Materials shall be copied or reproduced (including electronic reproduction or copying and backup copying) by the Receiving Party without the prior written consent of Disclosing Party.

5. Return of Tangible Information. At the request of Disclosing Party, the Receiving Party shall immediately return all Confidential Materials and all copies thereof to Disclosing Party.

6. Excluded Information. Receiving Party shall not be liable for disclosure to any third party or use of any Confidential Information which:

Party; (a) At the time of disclosure or thereafter becomes a part of the public domain through no act or omission of Receiving

 or

 (b) Has been independently perfected by the Receiving Party prior to such disclosure, as established by written records;

 (c) Is subsequently and lawfully disclosed to the Receiving Party by a third party, which third party did not acquire the information under an obligation of confidentiality from or through Disclosing Party.

7. Noncompete. Receiving party and his/her/its affiliates agree not to compete with any software development projects disclosed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Company) without the prior written consent of Disclosing Party.

8. Equitable Relief. Receiving Party’s obligations under this Agreement are unique. The parties acknowledge that if Receiving Party should default in performance of Receiving Party’s duties and obligations imposed under this Agreement, it would be extremely impracticable to measure the resulting damages. Accordingly, Disclosing Party, in addition to any other available rights or remedies, may sue in equity for specific performance or injunctive relief, and Receiving Party expressly waives the defense that a remedy in damages will be adequate. This right to equitable relief shall be in addition to all rights, powers and remedies given to Disclosing Party by virtue of any statute or rule of law, all of which rights, powers and remedies shall be cumulative and which Disclosing Party may exercise successively or concurrently.

9. Relationship Created. Nothing in this Agreement shall be construed to establish a license, joint venture, partnership or other contractual arrangement with respect to any of the Confidential Information. Neither party shall enter into an agreement with any third party based upon anything contained in this Agreement and neither party shall have any authority to obligate the other party.

10. Miscellaneous.

10.1. Entire Agreement. This document constitutes the entire agreement between the parties, all oral agreements being merged herein, and supersedes all prior representations. There are no representations, agreements, arrangements, or understandings, oral or written, between or among the parties relating to the subject matter of this Agreement that are not fully expressed herein.

10.2. Governing Law. The rights and obligations of the parties and the interpretation and performance of this Agreement shall be governed by the law of the state of Washington, excluding its conflict of laws rules.

10.3. Amendment. The provisions of this Agreement may be modified at any time by agreement of the parties.

Any such agreement hereafter made shall be ineffective to modify this Agreement in any respect unless in writing and signed by the parties against whom enforcement of the modification or discharge is sought.

10.4. Attorneys' Fees; Pre-judgment Interest. If the services of an attorney are required by any party to secure the performance of this Agreement or otherwise upon the breach or default of another party to this Agreement, or if any judicial remedy or arbitration is necessary to enforce or interpret any provision of this Agreement or the rights and duties of any person in relation thereto, the prevailing party shall be entitled to reasonable attorneys' fees, costs and other expenses, in addition to any other relief to which such party may be entitled. Any award of damages following judicial remedy or arbitration as a result of the breach of this Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law.

 10.5. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement which can be given effect without the invalid provision shall continue in full force and effect and shall in no way be impaired or invalidated.

10.6. Waiver. Any of the terms or conditions of this Agreement may be waived at any time by the party entitled to the benefit thereof, but no such waiver shall affect or impair the right of the waiving party to require observance, performance or satisfaction either of that term or condition as it applies on a subsequent occasion or of any other term or condition.

10.7. Nonassignablility. Neither party shall assign its rights under this agreement without the prior written consent of the other party.

10.8 Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if the parties had all signed the same document. All counterparts shall be construed together and shall constitute one agreement.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ DATE\_\_\_\_\_\_\_\_\_\_\_\_\_

(Company Signature)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ DATE\_\_\_\_\_\_\_\_\_\_\_\_\_

(Employee Signature)