

Employee: _____

PROPRIETARY INFORMATION AND INTELLECTUAL PROPERTY ASSIGNMENT AGREEMENT

As a condition of my being employed or hired by __[insert Company name]__, or any of its current or future subsidiaries, affiliates, successors or assigns (collectively, the “Company”), and in consideration of my relationship with the Company and my receipt of the compensation now and hereafter paid to me by the Company, I agree to the following:

1. **The Relationship.** Any employment relationship between the Company and me, whether commenced prior to or upon the date of this Agreement, shall be referred to herein as the “Relationship.” I acknowledge that the Company is relying on my commitment to the obligations set forth herein in employing and continuing to employ me. I acknowledge, however, that this Agreement does not impose on the Company any obligation to employ me for any period of time and that, except as provided in any written agreement to the contrary, my employment can be terminated at will by the Company. My obligations hereunder shall be in addition to the obligations contained in any written employment agreement between me and the Company or any written employment policies promulgated by the Company.

2. **Proprietary Information.**

(a) **Company Information.** I agree at all times during the term of the Relationship and thereafter, to hold in strictest confidence, and not to use, except for the benefit of the Company, or to disclose to any person, firm or corporation without written authorization of the President of the Company, any Proprietary Information of the Company that I obtain or create. I agree to hold the Proprietary Information confidential for five (5) years after termination of the Relationship, except that my obligations to hold confidential any trade secrets shall continue indefinitely. I further agree not to make copies of such Proprietary Information except as authorized by the Company. I understand that “Proprietary Information” means any Company proprietary information, technical data, trade secrets or know-how, including, but not limited to, research, product plans, products, services, service providers, licensees, customer lists and customers (including, but not limited to, customers of the Company on whom I called or with whom I became acquainted during the Relationship), prices and costs, markets, software, developments, inventions, processes, technology, designs, drawings, engineering, hardware configuration information, marketing, licenses, finances, budgets or other business information disclosed to me by the Company either directly or indirectly in writing, orally or by drawings or observation of parts or equipment or created by me during the period of the Relationship, whether or not during working hours. I understand that “Proprietary Information” includes, but is not limited to, information pertaining to any aspects of the Company’s business which is either information not known by actual or potential competitors of the Company or is proprietary information of the Company or its customers, licensees or suppliers, whether of a technical nature or otherwise. I further understand that Proprietary Information does not include any of the foregoing items which: (a) were publicly known and made generally available in the public

domain prior to the time of disclosure to me by the Company; (b) become publicly known and made generally available through no wrongful act of mine or of others who were under confidentiality obligations as to the item or items involved; (c) is already in my possession at the time of disclosure by the Company and which I can prove by my own files and records; (d) is obtained by me from a third party without a breach of the third party's obligation of confidentiality; (e) is independently developed by me without use or reference to the Proprietary Information, as shown by documents and other competent evidence in my possession; or (f) is required to be disclosed by law, regulation, or order of a court or government authority having competent jurisdiction, provided I notify the Company promptly of such a request so the Company may seek an appropriate protective order or other relief .

(b) **Third Party Information.** I recognize that the Company has received and in the future will receive from third parties their confidential or proprietary information subject to a duty on the Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes ("**Third Party Information**"). I agree to hold all such confidential or proprietary information in the strictest confidence and not to disclose it to any person, firm or corporation or to use it except as necessary in carrying out my work for the Company in a manner consistent with the Company's agreement with such third party.

(c) **Nondisclosure.** As part of the consideration for entering the Relationship, I agree at all times during the term of the Relationship and thereafter, to hold in strictest confidence, and not to use, except for the benefit of the Company, or to disclose to any person, firm or corporation without written authorization of the President of the Company, any Proprietary Information or Third Party Information.

3. **Intellectual Property.**

(a) **Intellectual Property Retained and Licensed.** I hereby confirm that, except as disclosed by me on Attachment A, there are no inventions or original works of authorship that were made by me prior to the Relationship (collectively referred to as "**Prior Intellectual Property**"), which belong to me and which relate to the Company's proposed or current business, services, products or research and development.

(b) **Assignment of Intellectual Property.** I agree that I will promptly make full written disclosure to the Company, will hold in trust for the sole right and benefit of the Company, and hereby assign, and agree to assign, to the Company, or its designee, all my right, title and interest throughout the world in and to any and all inventions, original works of authorship, developments, concepts, know-how, improvements, trademarks, domain names or trade secrets, whether or not patentable or registrable under patent, trademark, copyright or similar laws, that I may solely or jointly conceive or develop or reduce to practice or fix in a tangible medium, or cause to be conceived or developed or reduced to practice or fixed in a tangible medium, within the scope of and during the period of time of the Relationship (collectively referred to as "**Intellectual Property**"). I further acknowledge that all Intellectual Property which is developed by me (solely or jointly with others) within the scope of and during the period of the Relationship is a "**work made for hire**" (to the greatest extent permitted by applicable law) and is compensated by my salary, unless regulated otherwise by mandatory law. Finally, I acknowledge that this Section 3(b) does not apply to an invention for which no

equipment, supplies, facility or trade secret information of the Company was used and which was developed entirely on my own time, and (1) which does not relate (a) directly to the business of the Company or (b) to the Company's actual or demonstrably anticipated research or development, and (2) which does not result from any work performed by me for the Company.

(c) **Maintenance of Records.** I agree to keep and maintain adequate and current written records of all Intellectual Property developed by me (solely or jointly with others) during the term of the Relationship. The records may be in the form of notes, sketches, drawings, flow charts, electronic data or recordings, and any other format. The records will be available to and remain the sole property of the Company at all times. I agree not to remove such records from the Company's place of business except as expressly permitted by Company policy which may, from time to time, be revised at the sole discretion of the Company.

(d) **Intellectual Property Registrations.** I agree to assist the Company, or its designee, at the Company's expense, in every proper way to secure the Company's rights in the Intellectual Property and other intellectual property rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments and all other instruments which the Company shall deem necessary in order to apply for, obtain, maintain and transfer such rights and in order to assign and convey to the Company, its successors, assigns and nominees the sole and exclusive rights, title and interest in and to such Intellectual Property, and other intellectual property rights relating thereto. I further agree that my obligation to execute or cause to be executed, when it is in my power to do so, any such instrument or papers shall continue after the termination of this Agreement. If the Company is unable because of my mental or physical incapacity or unavailability or for any other reason to secure my signature to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering Intellectual Property assigned to the Company as above, then I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the application for, prosecution, issuance, maintenance or transfer of letters patent or trademark or copyright registrations thereon with the same legal force and effect as if executed by me. I hereby waive and irrevocably quitclaim to the Company any and all claims, of any nature whatsoever, which I now or hereafter have for infringement of any and all proprietary rights assigned to the Company.

(e) **Original Work.** I hereby agree that the Intellectual Property created by me during the Relationship will be my own original creation and that it will in no way infringe upon any rights of any other person or business entity.

(f) **No Rights.** I understand that nothing in this Agreement is intended to grant any rights to me under any patent, trademark, copyright or other intellectual property right of the Company, nor will this Agreement grant me any rights in or to the Proprietary Information, except as expressly set forth in this Agreement.

4. **Returning Company Documents.** I agree that, at the time of termination of the Relationship, I will deliver to the Company (and will not keep in my possession, recreate or deliver to anyone else) any and all devices, records, data, notes, reports, proposals, lists,

correspondence, specifications, drawings, blueprints, sketches, materials, flow charts, equipment, other documents or property, or reproductions of any aforementioned items developed by me pursuant to the Relationship or otherwise belonging to the Company, its successors or assigns. I further agree that to any property situated on the Company's premises and owned by the Company, including disks and other storage media, filing cabinets or other work areas, is subject to inspection by Company personnel at any time with or without notice. In the event of the termination of the Relationship, I agree to sign and deliver the "Termination Certificate" attached hereto as Appendix B.

5. **Notification to Other Parties.** In the event that I leave the employ of the Company, I hereby consent to notification by the Company to my new employer about my rights and obligations under this Agreement.

6. **Representations and Covenants.**

(a) **Facilitation of Agreement.** I agree to execute promptly any proper oath or verify any proper document required to carry out the terms of this Agreement upon the Company's written request to do so.

(b) **Conflicts.** I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by me in confidence or in trust prior to commencement of the Relationship. I have not entered into, and I agree I will not enter into, any oral or written agreement in conflict with any of the provisions of this Agreement.

(c) **Voluntary Execution.** I certify and acknowledge that I have carefully read all of the provisions of this Agreement and that I understand and will fully and faithfully comply with such provisions.

7. **No Warranty.**

ALL PROPRIETARY INFORMATION IS PROVIDED ON AN "AS IS" BASIS. COMPANY MAKES NO WARRANTIES, EXPRESS OR IMPLIED, OR OTHERWISE, REGARDING THE ACCURACY, COMPLETENESS, OR PERFORMANCE OF THE PROPRIETARY INFORMATION.

8. **General Provisions.**

(a) **Governing Law.** The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of Colorado, without giving effect to the principles of conflict of laws.

(b) **Entire Agreement.** This Agreement and the related Appendices set forth the entire agreement and understanding between the Company and me relating to the subject matter herein and merges all prior discussions between us. No modification or amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless in writing signed by the parties hereto. Any subsequent change or changes in my duties, obligations, rights or compensation will not affect the validity or scope of this Agreement.

(c) **Severability.** If any provision of this Agreement or part thereof shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, then such provision or part thereof shall be excised herefrom and the remaining provisions of this Agreement and parts thereof shall remain in full force and effect.

(d) **Successors and Assigns.** This Agreement will be binding upon and inure to the benefit of each party's heirs, executors, administrators, legal representatives, successors, and assigns.

(e) **Survival.** The provisions of this Agreement shall survive the termination of the Relationship and the assignment of this Agreement by the Company to any successor in interest or other assignee.

(f) **Breach.** The parties agree that it is impossible to measure in money the damages that will accrue to the Company due to my breach of this Agreement and/or failure to perform any of my obligations under this Agreement. Therefore, in the event the Company institutes any action or proceeding to specifically enforce the provisions of this Agreement by injunctive or other form of equitable relief, I hereby waive the claim or defense that the Company has an adequate remedy at law or that the Company has not been or is not being irreparably harmed, and I shall not assert in any such action or proceeding the claim or defense that such remedy at law exists.

(g) **Counterparts.** This Agreement may be executed in any number of separate counterparts, all of which, when taken together, shall constitute one and the same instrument.

(h) **ADVICE OF COUNSEL.** I ACKNOWLEDGE THAT, IN EXECUTING THIS AGREEMENT, I HAVE HAD THE OPPORTUNITY TO SEEK THE ADVICE OF LEGAL COUNSEL, AND I HAVE READ AND UNDERSTOOD ALL OF THE TERMS AND PROVISIONS OF THIS AGREEMENT. THIS AGREEMENT SHALL NOT BE CONSTRUED AGAINST ANY PARTY BY REASON OF THE DRAFTING OR PREPARATION HEREOF.

[signatures appear on the following page]

The parties have executed this Agreement on the respective dates set forth below:

COMPANY:

EMPLOYEE:

By: _____

By: _____
an Individual

Signature: _____

Signature: _____

Title: _____

Date: _____

Date: _____

Address:

Address:

APPENDIX A

PRIOR INTELLECTUAL PROPERTY

Employee Name: _____

Date: _____

I certify that the information provided below identifies all prior intellectual property for which I am an inventor and/or an owner.

Do you have any inventions that were conceived, developed or reduced to practice prior to entering into the Relationship? If so, please identify the current owner and provide a non-confidential description of the invention. Did you file a patent application? If so, please provide any published patent application numbers or issued patents.

Did you create or help to create any computer programs, writings of any type, graphic or artistic works or any other tangible materials for a previous employer? If so, please briefly describe the types of materials or work product which you created. Do you have any copyright registrations? If so, please provide a brief description of the work and the registration number.

APPENDIX B

TERMINATION CERTIFICATE

This is to certify that I do not have in my possession, nor have I failed to return, any devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items belonging to ____**[insert Company name]**____ its subsidiaries, affiliates, successors or assigns (together the “Company”).

I further certify that I have complied with all the terms of the Company’s Proprietary Information and Intellectual Property Assignment Agreement signed by me, including the reporting of any Intellectual Property, conceived or made by me (solely or jointly with others) covered by that agreement.

Date:_____

(Signature)

(Type/Print Name)